

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

LUKNER BLANC,

Petitioner,

v.

B.M. TRATE,

Respondent.

Case No. 1:22-cv-01192-SAB-HC

ORDER GRANTING PETITIONER'S
REQUEST TO STAY PENDING SUPREME
COURT RESOLUTION OF JONES V.
HENDRIX

ORDER SETTING BRIEFING SCHEDULE
(ECF No. 1)

Petitioner is a federal prisoner proceeding pro se with a petition for writ of habeas corpus pursuant to 28 U.S.C. § 2241. Petitioner has requested that the Court hold his petition in abeyance until the Supreme Court decides Jones v. Hendrix, No. 21-857. (ECF No. 1 at 1.) Respondent joins in Petitioner's motion to stay as it "serves the objectives of efficiency and preserves judicial resources." (ECF No. 11 at 2.)

Accordingly, IT IS HEREBY ORDERED that:

1. Petitioner's request for a stay of proceedings (ECF No. 1) is GRANTED;
2. Within **THIRTY (30) days** after the Supreme Court issues its decision in Jones v. Hendrix, No. 21-857, Petitioner may file a Supplement to the Petition;
3. Within **SIXTY (60) days** after the Supreme Court issues its decision in Jones v. Hendrix, No. 21-857, Respondent SHALL FILE a RESPONSE to the Petition and any Supplement. See Rule 4, Rules Governing Section 2254 Cases; Cluchette v. Rushen, 770 F.2d 1469, 1473–74 (9th Cir. 1985) (court has discretion to fix time for filing a response). A Response can be made by filing one of the following:
 - A. AN ANSWER addressing the merits of the Petition and any Supplement. Any argument by Respondent that Petitioner has

procedurally defaulted a claim SHALL BE MADE in the ANSWER, but must also address the merits of the claim asserted.

B. A MOTION TO DISMISS the Petition.

4. Within **SIXTY (60) days** after the Supreme Court issues its decision in Jones v. Hendrix, No. 21-857, Respondent SHALL FILE any and all transcripts or other documents necessary for the resolution of the issues presented in the Petition. See Rule 5(c), Rules Governing Section 2254 Cases. **The transcripts or other documents shall only be filed electronically and, to the extent practicable, provided in Optical Character Recognition (“OCR”) format. Respondent shall not file a hard copy of the transcripts or other documents unless so ordered by this Court.**
5. If Respondent files an Answer to the Petition, Petitioner MAY FILE a Traverse within **THIRTY (30) days** of the date Respondent’s Answer is filed with the Court. If no Traverse is filed, the Petition and Answer are deemed submitted at the expiration of the thirty days.
6. If Respondent files a Motion to Dismiss, Petitioner SHALL FILE an Opposition or Statement of Non-Opposition within **TWENTY-ONE (21) days** of the date of service of Respondent’s Motion. Any Reply to an Opposition to the Motion to Dismiss SHALL be filed within **FOURTEEN (14) days** after the Opposition has been filed in CM/ECF. The Motion to Dismiss will be deemed submitted when the time to reply has expired. See Local Rule 230(l).

IT IS SO ORDERED.

Dated: **February 22, 2023**


UNITED STATES MAGISTRATE JUDGE